

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

WAL-MART STORES, INC., WAL-MART
STORES TEXAS, LLC, and QUALITY
LICENSING CORP.

Plaintiffs,

v.

TEXAS ALCOHOLIC BEVERAGE
COMMISSION; JOSÉ CUEVAS, in his official
capacity as Presiding Officer of the Texas
Alcoholic Beverage Commission; STEVEN M.
WEINBERG, in his official capacity as
Commissioner of the Texas Alcoholic Beverage
Commission; IDA CLEMENT STEEN, in her
official capacity as Commissioner of the Texas
Alcoholic Beverage Commission,

Defendants,

and

TEXAS PACKAGE STORES ASSOCIATION,

Intervenor.

Civil Action No. 1:15-cv-00134-RP

WAL-MART'S NOTICE OF CROSS-APPEAL

Notice is hereby given that Wal-Mart Stores, Inc., Wal-Mart Stores Texas, LLC, and Quality Licensing Corp. (together, "Walmart"), plaintiffs in this action, appeal to the United States Court of Appeals for the Fifth Circuit from the District Court's Order, Dkt. 333, and Final Judgment, Dkt. 334, entered in this action on March 20, 2018.

Walmart's complaint challenged the constitutionality of Texas Alcoholic Beverage Code §§ 22.04, 22.05, and 22.16 on the grounds that: (1) the statutes violate the Commerce Clause; and (2) the statutes violate the Equal Protection Clause. Walmart sought a declaratory judgment

that the statutes were unconstitutional on those grounds. Walmart also sought an injunction preventing the state from enforcing those three statutes. The district court correctly enjoined all three statutes. However, the district court denied:

- (a) Walmart's request for a declaratory judgment that § 22.04 violates the Commerce Clause and Equal Protection Clause;
- (b) Walmart's request for a declaratory judgment that § 22.05 violates the Commerce Clause; and
- (c) Walmart's request for a declaratory judgment that § 22.16 violates the Equal Protection Clause.

Walmart cross-appeals from these denials of the declaratory relief it requested. Walmart further cross-appeals from the findings, rulings, determinations, conclusions, orders, opinions, and decisions preceding or leading to or merged or incorporated into the above-referenced denials of declaratory judgment in the Final Judgment or in the Order.

DATED: April 26, 2018

Respectfully submitted,

By: /s/ Michael C. Kelso

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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument has been served on all counsel of record, this 26th day of April, 2018, via the Court's CM/ECF system.

/s/ Michael C. Kelso

Michael C. Kelso